

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE TERRORIST ATTACKS ON SEPTEMBER 11, 2001	Civil Action No. 03 MDL 1570 (GBD)(FM)
--	---

This document relates to:

Burnett, et al. v. Al Baraka Inv. & Dev. Corp., et al., Case No. 03-cv-9849 (GBD)(SN)

[PROPOSED] ORDER

Plaintiffs in *Burnett, et al. v. Al Baraka Inv. & Dev. Corp., et al.*, No. 03-cv-99849 (the “*Burnett* Plaintiffs”), move to amend their complaint under Federal Rule of Civil Procedure 15. ECF No. 9533.¹ They also request certain additional considerations to facilitate amendment.

Federal Rule of Civil Procedure 15(a)(2) permits a party to amend its complaint with the court’s leave. Courts are directed to “freely give leave when justice so requires.” *Id.* This decision is committed to the discretion of the court, *McCarthy v. Dun & Bradstreet Corp.*, 482 F.3d 184, 200 (2d Cir. 2007), but granting “leave to amend is the ‘usual practice,’” *Bank v. Gohealth, LLC*, No. 21-cv1287, 2022 WL 1132503, at *1 (2d Cir. Apr. 18, 2022) (quoting *Hayden v. Cnty. Of Nassau*, 180 F.3d 42, 53 (2d Cir. 1999)). *See Foman v. Davis*, 371 U.S. 178, 182 (1962) (finding that leave to amend should be granted “[i]n the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of the amendment . . .”). These claims are not futile, will not unduly delay these proceedings or prejudice the Taliban, and were not filed in bad faith or with a dilatory motive. The *Burnett* Plaintiffs’ motion is therefore GRANTED, and it is further ORDERED that:

¹ Unless otherwise noted, all ECF numbers refer to the main MDL docket, 03-md-01570.

- The underlying complaint in *Burnett*, No. 03-cv-09849, is amended to include the thirteen (13) parties identified in the *Burnett* Plaintiffs' exhibit at ECF No. 9535-1 as parties in the action against the Taliban;
- These amendments supplement, but do not displace, the underlying operative complaint in *Burnett*, No. 03-cv-09849;
- Prior rulings, orders, and judgments entered in this case remain in effect as to all parties; and
- Further service on the Taliban is not required as a result of these amendments, and prior service orders apply, including the Court's order on service by publication at ECF Nos. 445, 488.

The Clerk of Court is respectfully directed to terminate the motion at ECF No. 9629 and the related motion at ECF No. 1140 in *Burnett*, No. 03-cv-09849.

SO ORDERED.

SARAH NETBURN
United States Magistrate Judge

DATED: _____, 2024
New York, New York